**THE HON'BLE SRI JUSTICE P.S.NARAYANA**

**Writ Petition No.11013 of 2007**

**Date: 23-11-2007**

Between :-

Rapaka Sai Suresh .. Petitioner

And

The Secretary to Government of A.P., Industries & Commerce (M.II) Department, Secretariat, Hyderabad and 4 others .. Respondents

**THE HON'BLE SRI JUSTICE P.S.NARAYANA**

**Writ Petition No.11013 of 2007**

**ORDER:-**

Heard Sri Bhaskara Laxmi, the learned Counsel representing the writ petitioner and the learned A.G.P. for Industries and Sri Jagannadha Rao representing R.5.

2. The Writ Petition is filed for Writ of Certiorari and set aside the order of the first respondent passed in proceedings Memo.No.11291/M.II(1)/2006 dated 3-5-2007 as arbitrary and illegal and contrary to the A.P.M.M.C.Rules, 1966 and pass such other suitable orders.

3. The order impugned dated 3-5-2007 reads as hereunder:-

***GOVERNMENT OF ANDHRA PRADESH***
***INDUSTRIES AND COMMERCE (M.II) DEPARTMENT***

***Memo.No.11291/M.II(1)/2006*** ***Dated:3-5-2007***

*Sub:- Mines and Quarries – Revision Application filed by Sri P.Sarat Chandra against the proceedings No.835/Q/2000, dated 15-9-2006 of Deputy Director of Mines and Geology, Visakhapatnam – Disposed – Reg.*

*Ref:- 1) Revision Application filed by Sri P.Sarat Chandra, dt.14-7-2006.*

*2) Govt. Memo. No.11291/M.II(1)/2006-1, dt.4-4-2006.*

*3) From the No. No.No.28815/No.1-1/2006, dt.2-11-2006.*

*4) Representation of Sri Rapaka Sai Suresh, dt.11-10-2006*

*5) Representation of Sri P.Sarat Chandra, dt.21-12-2006*

*6) Govt.Telegram No.11291/M.II(1)/2006-2, dt.13-2-07.*

*7) Orders of High Court in W.P.No.2546/2007, dt.27-2-07.*

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*Sri P.Sarat Chandra has filed Revision Application before Government under Rule 35-A of APMMC Rules, 1966, against the proceedings No.835/Q/2000, dated 15-9-2006 of Deputy Director of Mines and Geology, Hyderabad.*

*2. Sri P.Sarat Chandra has been granted a Quarry Lease for Road Metal and Building Stone over an extent of 1.64 Hectares in Sy.No.9 of Muvvada village, Bondapalli Mandal, Vizianagaram by the Deputy Director of Mines and Geology, Visakhapatnam vide proceedings No.976/Q/2000, dated 28-6-2001. Sri P.Sarat Chandra has executed lease*

*on 25-9-2001 and the lease is in force up to 24-9-2011. Further, the Assistant Director of Mines and Geology, Vizianagaram has reported that the lessee i.e., Sri P.Sarat Chandra has not paid the advance dead rent for the year 2005-06. Hence, he submitted proposals that the Deputy Director of Mines and Geology, Visakhapatnam to determine the quarry lease held by Sri P.Sarat Chandra, since the lessee have failed to pay the advance ded for the year 2005-06. Accordingly, the Deputy Director of Mines and Geology, Visakhapatnam has determined the lease held by Sri P.Sarat Chandra.*

*3. Aggrieved by the determination orders of Deputy Director of Mines and Geology, Sri P.Sarat Chandra filed the present Revision Application vide reference 1st cited, and submitted that due to some financial problems, he could not pay the lease amount and now he is ready to pay the dead rent for the present year also. As he has invested huge amounts on Quarry Lease, he requested to grant Quarry lease for him. He has also requested vide reference 5th cited to condone the delay in filing the Revision Application.*

*4. Sri Rapaka Sai Suresh submitted another representation vide reference 5th cited and submitted that:*

*a. I am unemployed graduate to belonging to Backward*

*Class Community of Thorupaka Kapus.*

*b. I applied for the grant of Mining Lease of an extent of 1.64*

*Hects. Covered by Survey No.9 of Maruvada village of Bondapalli Mandal, Vizianagaram District for a period of ten (10) years to the Deputy Director of Mines and Geology, Visakhapatnam along with application fees of Rs.1500/- on date 10-1-2006.*

*c. On my application, the Deputy Director of Mines*

*and*

*Geology called for remarks of the Mandal Revenue Officer, Bondapalli Mandal, Vizianagaram District who cleared my application with an endorsement of "No Objection" on dated 12-6-2006.*

*d. I came to know that Sri Padala Sarat Chandra, s/o.Ramunaidu previous lessee of the said Mining Quarry failed to work out the Quarry and committed default in payment of yearly list and royalty to the Government for the last several years, and hence the lease was cancelled by the authorities concerned. It also appears, that he did not prefer Revision in time against the orders of cancellation of his lease. I further came to know that the said Padala Sarat Chandra is prosecuting his studies in Chennai (Tamilnadu) and he is not interested introspecting the said quarry.*

*e. I have my Zeroyati lands nearby the quarry and therefore,*

*there will be no objection from any quarter to remove the material from the said quarry.*

*f. In anticipation of grant of lease in my favour as I am the*

*only applicant, I invested most of my savings to clear the shrubs and Bushes around the Mine laid approach roads through my lands adjacent to the said Mines for easy transport of the material.*

*g. In such circumstances, the stay granted by your Honour on*

*proceedings No.1153/Q3/2005, dated 8-12-2005 of the Deputy Director of Mines and Geology, Visakhapatnam, pending disposal of the revision application filed by Sri Padala Sarat Chandra is*

*causing much hardship and heavy monetary loss to me.*

*h. Besides, the stay granted by your honour is also resulting in huge financial loss to the Government.*

*i. I, therefore, humbly pray that the stay of the proceedings No.1153/Q3/2005, dated 8-12-2005 of the Deputy Director of Mines and Geology, Visakhapatnam, by your honour in your Office Memo.No.11291/M.II(1)/2006-1 may be vacated and thus render justice.*

*5. The Director of Mines and Geology vide his reference 3rd cited reported that the Assistant Director of Mines and Geology, Vizianagaram, furnished the details of Mineral Revenue particulars as follows:*

| | *Mineral Revenue Dues as on 31-3-2006* | *Payment particulars* |
|---|---|---|
| *Dead Rent* | *Rs.88,179/-* | *Ch.No.3436, dated 7-10-2006 for Rs.88,179/-* |
| *Land Assessment* | *Rs.22/-* | *Ch.No.3437, dated 7-10-2006 for Rs.100/-* |
| *Interest* | *Rs.28,817/-* | *Ch.No.3435, dated 7-10-2006 for Rs.28,817/-* |

*6. The Revision application filed by Sri P.Sarat Chandra and the representation of Sri Rapaka Sai Suresh have been examined by Government based on the material available on record. However, a personal hearing was conducted on 21-2-2007 as per Rule 35-A of APMMC Rules, 1966, and heard both the Revision applicant and Sri Rapaka Sai Suresh. During hearing Revision applicant informed that he had not paid the Dead Rent etc., due to financial problems and now he paid all the dues and requested to allow his Revision*

*Application. The Revision applicant was heard. In the meantime, Sri Rapaka Sai Suresh has approached the Hon'ble High Court of A.P. by filing W.P.No.2546/2007 to direct the Government to dispose the Revision Application filed by Sri P.Sarat Chandra and also to quash the orders issued by Government vide reference 2nd cited. The Hon'ble High Court in its orders dt.27-2-2007 directed the State Government to pass orders immediately as the Revision petition has already been heard. Government, after careful examination of the matter and by exercising the powers conferred under APMMC Rules, 1966, hereby condone the delay in filing Revision Application and allow the Revision Application. The Revision Application is accordingly disposed of.*

*The Director of Mines and Geology is requested to take necessary action in the matter.*

*Sd/-*

*SECRETARY TO GOVERNMENT*

4. The main grievance ventilated by the learned Counsel representing the writ petitioner is that even while condoning delay and while allowing the Revision Application, no convincing reasons had been recorded by the 1st respondent and hence, the same is liable to be quashed. The Counsel also had taken this Court through the contents of the representation made by the representation made by the writ petitioner and would submit that in the facts and circumstances of the case it is a fit matter where the matter to be remitted again to the 1st

respondent for reconsideration.

5. Per contra, the learned A.G.P. for Industries would submit that he was an existing lease-holder and absolutely there are no serious allegations against him. The learned Counsel also had taken this Court through the counter affidavit filed in this regard.

6. Sri Jagannadha Rao, the learned Counsel representing R.5 had taken this Court through the contents of the counter affidavit filed along with W.V.M.P.No.1849/2007 and would maintain that in the facts and circumstances this is not a fit case to be interfered with.

7. Heard the Counsel.

8. It is stated that by the writ petitioner in the affidavit filed in support of the Writ Petition that *the 5th respondent by name Padala Sarat Chandra has been granted a Quarry Lease for Road Metal and Building stone over an extent of 1.64 hecters in Sy.No.9 of Maruvada village of Bondapalli Mandal in Vizianagaram District for a period of 10 years and also stated that the quarry lease deed was executed by the Assistant Director of Mines and Geology, Vizianagaram for a period of 10 years commencing from 25-9-2001 to 24-9-2011 vide proceedings No.835/2000 Dt.7-3-2002. It is also stated that the petitioner came to know that the Assistant Director of Mines and Geology,*

*Vizianagaram, submitted proposals for determination of lease under Rule 31 of A.P.Mineral Mining Concession Rules, 1966, stating that the lease-holder i.e., the 5th respondent herein has failed to pay the advance Dead Rent of Rs.14,000/- for the year 2005-2006 and also dues in a sum of Rs.56,584/- for the period 2004-2005. It is further stated that a show cause notice was issued to the leaseholder, directing him to explain as to why action should not be taken for the termination of the lease and also stated that the 5th respondent i.e., the leaseholder has not given any reply to the show cause notice and has not paid the dues within the stipulated period and as such the quarry lease was determined by proceeding No.115/Q/05 dated 8-12-2005 by the Deputy Director of Mines and Geology, Visakhapatnam, who cancelled the lease. Further it is stated that subsequently, the 5th respondent filed a revision against the said order before the Government of Andhra Pradesh, Department of Mines and Geology, and by Memo No.11219/M-II(1)06-04 dt.4-9-2006 granted stay of proceedings of Deputy Director of Mines and Geology, Visakhapatnam, dt.8-12-2005 was granted and remarks on the revision petition filed by the 5th respondent were called for. It is further stated that the writ petitioner is an unemployed Graduate belonging to*

*Backward Class Community of Thoorupu Kapu and also stated that after the cancellation of the lease in favour of 5th respondent, the petitioner applied to the Deputy Director of Mines and Geology, Visakhapatnam, for grant of Mining Lease of an extent of 1.64 hectars covered by Sy.No.9 of Maruvada village, Bondapalli Mandal, Vizianagaram District for a period of ten years, along with an application fee of Rs.1500/- on 10-1-2006 with Form-B, under Rule 9 of A.P.M.M.C.Rules, 1966, with challan No.26254. It is also stated that on the application of the petitioner, the Deputy Director of Mines and Geology called for remarks from the Mandal Revenue Officer, Bondapalli Mandal, Vizianagaram District, who endorsed "No Objection" on 12-6-2006. It is further averred that the 5th respondent's quarry lease was cancelled after giving show cause notice and as no reply was given to the show cause notice and on the ground that the 5th respondent committed default in payment of yearly lease and Royalty to the Government for the last several years and as such, the lease was cancelled by the respondent authorities. It is also averred that while the matters stood thus, the petitioner came to know that when his application was likely to be considered by the respondent authorities, the 5th respondent filed Revision before the Government with a delay and obtained interim stay orders determining his*

*lease and further averred that the petitioner came to know that the lease-holder is not in Vizianagaram and he is studying and pursuing his studies in Chennai and he is not interested in quarrying operations. It is also stated that the petitioner had his Zeoyat lands nearby the quarry and therefore, there will be no objection from any quarter for the removal of mineral material extracted from the said quarry. Further it is stated that in anticipation of grant of lease in favour of the petitioner, as he is the 1st applicant, he invested most of his savings for clearing the shrubs and bushes around the mining area and laid approach roads, through his land adjacent to the said mine for easy transport of the material. It is also stated that while the matters stood thus, when the petitioner came to know about the stay proceeding granted in the revision petition filed by the 5th respondent, the petitioner filed his Vacate Stay Petition on 11-10-2006 and the same was not disposed of by the 1st respondent and also further stated that as 1st respondent failed to dispose of either the Vacate Petition filed by the petitioner or the Revision itself, the petitioner was constrained to file W.P.No.546/2007 before trial Court and this Court was pleased to disposed of the Writ Petition directing the 1st respondent to pass*

*orders on the revision application filed by the 4th respondent by order dated 27-2-2007. Subsequently, the 1st respondent for reasons best known to her, disposed of the revision application of the 4th respondent by order dated 3-5-2007.* Certain grounds also had been raised in the affidavit filed in support of the Writ Petition and Rule 31(4) and Rule 17(1) of the A.P.M.M.C.Rules also had been referred to.

9. In the counter affidavit filed by respondents 1 to 4 in W.V.M.P.No.2806/2006, the 4th respondent had sworn to the counter affidavit and it is stated that *it is a fact that a quarry lease for road mental and building stone has been granted to Sri P.Sarat Chandra – 5th respondent by the Deputy Director of Mines and Geology, Visakhapatnam, vide proceedings No.976/Q2/2000, dt.28-6-2001 and also further stated that the quarry lease deed was executed with the Assistant Director of Mines and Geology, Vizianagaram and work order was issued videprgs No.835/Q/2000, dt.25-9-2001 over an extent of 1.64 Hcts for a period of 10 years after collecting the amounts as per APMMC Rules 1966. Further it is stated that the Assistant Director of Mines and Geology, Vizianagaram vide Lr.No.835/Q1/2000, dt.30-3-2005 addressed a letter to the Deputy Director of Mines and Geology, Visakhapatnam,*

*as the lessee Sri P.Sarat Chandra failed to pay advance Dead Rent of Rs.41,000/- for the year 2005-2006 and also dues of Rs.56,584/- for the year 2004-2005. It is also stated that basing on the report of the Assistant Director of Mines and Geology, Vizianagaram, the Deputy Director of Mines and Geology, Visakhapatnam issued a show cause notice to the 5th respondent vide 835/Q/2000, dt.31-3-2005 and even after receiving the notice Sri P.Sarat Chandra failed to pay the advance Dead Rent for the year 2005-2006 and the previous year dues also. Therefore, the Assistant Director ofm7g, Vizianagaram requested the Deputy Director of Mines and Geology, Visakhapatnam vide Lr.No.835/Q/2000, dt.9-6-2005 to determine the quarry lease held by the 5th respondent. It is also averred that the Deputy Director of Mines and Geology, Visakhapatnam had determined the quarry lease vide proceedings No.1153/Q3/2005, dated 8-12-2005. Aggrieved by the said order of the Deputy Director of Mines and Geology, Visakhapatnam, the 5th respondent filed revision before the Government and cleared the dues and submitted original challans to the Assistant Director of Mines and Geology, Vizianagaram, on 9-10-2006. The same was brought to the notice of the Director of Mines and Geology, Hyderabad by the Deputy*

*Director of Mines and Geology, Visakhapatnam vide Lr.No.176/Q3/2000, dt.21-9-2006. It is further stated that it is a fact to the 4th respondent received a quarry lease application from the petitioner requesting for granting of quarry lease for Road Metal and Building Stone of the 5th respondent determined area. The application was received by the 4th respondent on 10-1-2006 as per Rule 12 of APMMC Rules 1966. The Mandal Revenue Officer, Bondapalli, also issued No Objection Certificate in favour of the applicant. Further it is stated that as said supra, the quarry lease held by the 5th respondent was determined by the Deputy Director of Mines and Geology, Visakhapatnam on 8-12-2005 and the 5th respondent filed a Revision before the Government and the 1st respondent granted stay on the determination orders passed by the Deputy Director of Mines and Geology, Visakhapatnam vide Memo. No.11291/MII(1)/2006-(1), dt.4-9-2006. Further it is stated that after hearing the case, the determination order issued by the Deputy Director of Mines and Geology, Visakhapatnam was set aside duly condoning the delay in submission of revision application vide Government Memo.No.11291/MII(1)/2006, dt.3-5-2007.* It is needless to say that that the said order already had been referred to

supra. *Further it is stated that that the 5th respondent quarry lease had been determined as he filed to pay the Dead Rent as per Rule 10 APMMC Rules 1966. Subsequently, the lease-holder paid all dues to the Department. It is also stated that as per Rule 35 of APMMC Rules, 1966, the Government may either suo motu at any time or an application made within ninety days, call for and examine the record relating to any order passed or proceeding taken by the Director, Deputy Director or Assistant Director under these Rules for the purpose of satisfying themselves to the regulating or propriety of the such order or as to the regularity of such proceedings and pass such other in reference thereto as they think fit. It is also stated that under Rule 35-Company of APMMC Rules 1966, Rules empowered the 1st respondent to entertain revision application received after the specified period under Rule 35-A the reasons put forth by the applicant by showing sufficient reasons for not making the application within the specified time. Accordingly, the application for revision is considered and the determination order of the 3rd respondent was set aside was issued within the frame work of the APMMC Rules 1966.*

10. In W.V.M.P.No.1849/2007, the 5th respondent in

the counter affidavit filed had taken almost the similar stand which had been taken by the official respondents.

11. On a careful scrutiny of the impugned order and also taking into consideration the facts and circumstances, this Court is of the considered opinion that while balancing the rights, certain factors had been taken into consideration and the revision had been allowed. It is not as though absolutely no reasons had been recorded by the 1st respondent. It may be that reasons in detail had not been recorded relating to the condonation of delay, but when discretion had been exercised and delay had been condoned and on facts when 1st respondent exercised the power under the specified Rules and made an order setting aside the orders which had been questioned in the revision and ultimately allowed, normally, this Court to be slow in disturbing such order, especially, in a case of this nature, where there are no serious allegations as against the 5th respondent as such, except the nonpayment which had been duly complied with. Accordingly, this Court does not see any reason to interfere with the impugned order. The Writ Petition stall stand dismissed. No order as to costs.

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Justice P.S.Narayana

23rd November, 2007

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